

on
MULTIDISTRICT LITIGATION

CHAIRMAN:

Judge John G. Heyburn II
United States District Court
Western District of Kentucky

MEMBERS:

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vratil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

Judge Anthony J. Scirica
United States Court of Appeals
Third Circuit

DIRECT REPLY TO:

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Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
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September 10, 2007

J. Michael McMahon, Clerk
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

9.07cv157

Re: MDL-1789 -- IN RE Fosamax Products Liability Litigation

(See Attached CTO-33)

Dear Mr. McMahon:

I am enclosing a certified copy and one additional copy of a conditional transfer order filed by the Panel in the above-captioned matter on August 23, 2007. As stipulated in Rule 7.4(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), transmittal of the order has been stayed 15 days to give any party an opportunity to oppose the transfer. The 15-day period has now elapsed, no opposition was received, and the order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

A list of involved counsel is attached.

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By Dana L. Stewart
Deputy Clerk

Attachment

cc: Transferee Judge: Judge John F. Keenan
Transferor Judges: (See Attached List of Judges)
Transferor Clerks: Jack L. Wagner; Clarence Maddox; David J. Maland

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

AUG 23 2007

FILED
CLERK'S OFFICE

UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

MDL NO. 1789

IN RE Fosamax Products Liability Litigation

Martin Smith, et al. v. Merck & Co., Inc., E.D. California, C.A. No. 2:07-1608

Filomena Eleccion v. Merck & Co., Inc., E.D. California, C.A. No. 2:07-1609

Olga V. Wood v. Merck & Co., Inc., S.D. Florida, C.A. No. 1:07-22107

Debbie Prestridge v. Merck & Co., Inc., E.D. Texas, C.A. No. 9:07-157

CONDITIONAL TRANSFER ORDER (CTO-33)

On August 16, 2006, the Panel transferred four civil actions to the United States District Court for the Southern District of New York for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 444 F.Supp.2d 1347 (J.P.M.L. 2006). Since that time, 81 additional actions have been transferred to the Southern District of New York. With the consent of that court, all such actions have been assigned to the Honorable John F. Keenan.

It appears that the actions on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the Southern District of New York and assigned to Judge Keenan.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Southern District of New York for the reasons stated in the order of August 16, 2006, and, with the consent of that court, assigned to the Honorable John F. Keenan.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Southern District of New York. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

Inasmuch as no objection is
pending at this time, the
stay is lifted.

SEP 10 2007

CLERK'S OFFICE
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

FOR THE PANEL:


Jeffery N. Lüthi
Clerk of the Panel

INVOLVED COUNSEL LIST (CTO-33)
MDL NO. 1789
IN RE Fosamax Products Liability Litigation

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INVOLVED JUDGES LIST (CTO-33)
MDL NO. 1789
IN RE Fosamax Products Liability Litigation

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Hon. Ronald S.W. Lew
Senior U.S. District Judge
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Hon. Adalberto Jordan
U.S. District Judge
Federal Courthouse Square
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Miami, FL 33128

Hon. Thad Heartfield
Chief Judge, U.S. District Court
212 Jack Brooks Federal Bldg. & U.S. Courthouse
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